

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5308 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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DEEPAKBHAI P PATEL

Versus

STATE OF GUJARAT

Appearance:

MR SR SHAH for Petitioner
GOVERNMENT PLEADER for Respondent No. 1
NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 21/03/2000

ORAL JUDGEMENT

The petitioner being aggrieved by an order,
Annexure C dated 24.7.89 made by the Mamlatdar, the
Licensing Authority rejecting the application for renewal
of licence dated 22.6.1989 calling upon the petitioner to
remove the encroachment and to pay the amount of tax has

preferred this application.

2. From the record, it appears that Kumbharia Gram Panchayat passed a resolution on 21.11.1984 in favour of the petitioner for permitting him to run touring cinema as per the conditions mentioned in the resolution. Condition no.1 makes it clear that the permission of the Collector was necessary. Mr.Shah, Ld. Counsel submitted that since thereafter the petitioner has developed the land for the purpose of using the same as a touring cinema. He further submitted that licence was issued in favour of the petitioner on 13.5.1985 and thereafter it was renewed from time to time. However, an application for renewal came to be rejected on the ground that the Collector, Surat has taken a decision not to renew the licence. It is in view of this the order Annexure C came to be passed.

3. It is required to be noted that as per Bombay Cinema Rules, 1954 licence is to be renewed. Reading Rule 106, it appears that the licence for touring cinema can be renewed for a period not exceeding one year. Mr.Shah submitted in view of proviso to Rule 107, the total period of the original licence and the further renewal thereof at any one place can for a period of 2 years but in any case, it cannot exceed for a period of more than 2 years and therefore, according to his submission if the authority is satisfied, then in view of proviso licence can be issued for a period of 2 years.

4. In the instant case, the application was rejected. Thereafter, the petitioner has applied and permission has been granted. Therefore there is no cause of action so far as Annexure C is concerned except in so far as encroachment is concerned.

5. Under these circumstances, it is directed that the Collector shall examine the matter and shall take appropriate action in accordance with law, so far as the encroachment is concerned. The petition stands disposed of having become infructuous by passage of time as the renewal application has been already granted by the appropriate authority. Hence the petition stands disposed of. Rule discharged. No order as to costs.

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